IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

(1) S.B.CRIMINAL MISC. PETITION NO. 1093/2006
(Amit Kumar Pareek & Anr. Vs. State of Rajasthan & Anr.)

(2) S.B.CRIMINAL MISC. PETITION NO. 1094/2006
(Amit Kumar Pareek & Anr. Vs. State of Rajasthan & Anr.)

Date of Order : 01/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.K.Garg for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.
Mr. B.S.Rathore for the non-petitioner No.2 complainant.

BY THE COURT:-

By both these criminal misc. petitions under Section 482 Cr.P.C., the petitioners seek quashing of criminal proceeding in Criminal Case No.48/02 & 47/02 pending in the Court of Judicial Magistrate Ist Class No.2, Bikaner (for short 'the trial court' hereinafter). Both these petitions involve common question of law and facts and arise between the same parties, therefore, with the consent of counsel for the parties, they are heard together and decided at the admission stage.

I have heard learned counsel for the parties. Perused the orders impugned.

On report lodged by non-petitioner No.2 Jagdish,

two criminal reports were registered and after investigation, the police filed challan against the present petitioners. During pendency of criminal case, parties have amicably settled the matter, and a compromise seeking compounding of offence was filed before the trial court. The trial court accepted the compromise to the extent offence compoundable under Section 420 IPC and accordingly acquitted the petitioners. However, for the other offences being non-compundable, as they are not provided in either Table to Section 320 Cr.P.C., continued with the proceeding of the case.

The dispute between the parties was with regard to land bearing Khasra No.803/100 measuring 75 bighas and Khasra No. 804/100 measuring 75 bighas, situated at village Bhanipura. A civil suit being Civil Suit No.27/2004 was filed by one Hansraj with respect to the land of both the Khasras noticed above against the petitioners, which came to be compromised by the parties on 19.4.2004. The compromise was filed in the Court of Sessions Judge, Bikaner. By judgment and decree dated 13.8.2004, the suit was decreed by compromise in the terms that land bearing Khasra No.804/100 measuring 75 bighas, the new settlement Khasra number of which is Khasra No.610 measuring 3.70 Hectare, Khasra No.6.11 measuring 4.83 Hectare, Khasra No.4161/612 measuring 5.05 Hectare and Khasra No.4162/613 measuring 5.39 Hectare, which was sold to

defendants No. 2 to 4 by defendant No.1 Amit Kumar Power of Attornery Holder of plaintiff Hansraj on 4.6.97 by a sale deed, the parties have cancelled the sale deed by mutual consent and defendants No. 2 to 4 have received the amount of sale-deed. The plaintiff is the owner of the said land and the defendants No. 2 to 4 have given the possession of the land to the plaintiff and he is free to record the said land in his name in the revenue records for which the defendants No. 2 to 4 have no objection.

The land covered by these Khasras was the subject matter of the offences. Since the parties have compromised the matter, no evidence is likely to come against the petitioners and therefore, to continue the proceeding would be nothing but more than futile exercise and would result in abuse of the process of the Court. In this view of the matter, both the petitions deserve to be allowed.

In the result, both the criminal misc. petitions are allowed. The criminal proceedings in Criminal Case No.48/02 and 47/02 pending in the Court of Judicial Magistrate, Ist Class No.2, Bikaner, against the petitioners stand quashed.

(H.R.PANWAR),J.

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